

STAYED, TYPE I-FOIA

**U.S. District Court  
District of Columbia (Washington, DC)  
CIVIL DOCKET FOR CASE #: 1:16-cv-02112-TNM**

PUBLIC EMPLOYEES FOR ENVIRONMENTAL  
RESPONSIBILITY v. UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY  
Assigned to: Judge Trevor N. McFadden  
Demand: \$0  
Cause: 05:552 Freedom of Information Act

Date Filed: 10/24/2016  
Jury Demand: None  
Nature of Suit: 895 Freedom of  
Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**PUBLIC EMPLOYEES FOR  
ENVIRONMENTAL  
RESPONSIBILITY**

represented by **Laura Marie Colangelo Dumais**  
EARTHJUSTICE  
1625 Massachusetts Avenue, NW  
Suite 702  
Washington, DC 20036  
(202) 797-5250  
Fax: (202) 667-2356  
Email: [ldumais@earthjustice.org](mailto:ldumais@earthjustice.org)  
**TERMINATED: 04/05/2017**  
**LEAD ATTORNEY**

**Paula Naomi Dinerstein**  
PUBLIC EMPLOYEES FOR  
ENVIRONMENTAL RESPONSIBILITY  
962 Wayne Avenue  
Suite 610  
Silver Spring, MD 20910  
(202) 265-7337  
Fax: (202) 265-4192  
Email: [pdinerstein@peer.org](mailto:pdinerstein@peer.org)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY**

represented by **Damon William Taaffe**  
U.S. ATTORNEY'S OFFICE FOR THE  
DISTRICT OF COLUMBIA  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2519  
Fax: (202) 252-2599  
Email: [damon.taaffe@usdoj.gov](mailto:damon.taaffe@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Marina Utgoff Braswell**  
U.S. ATTORNEY'S OFFICE FOR THE  
DISTRICT OF COLUMBIA  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2561  
Fax: (202) 252-2599  
Email: [Marina.Braswell@usdoj.gov](mailto:Marina.Braswell@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Wynne Patrick Kelly**

U.S. ATTORNEY'S OFFICE FOR THE  
DISTRICT OF COLUMBIA  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2545  
Fax: (202) 252-2599  
Email: [wynne.kelly@usdoj.gov](mailto:wynne.kelly@usdoj.gov)  
TERMINATED: 03/28/2017  
LEAD ATTORNEY

**Sherri L. Morgan**  
U.S. ATTORNEY'S OFFICE FOR THE  
DISTRICT OF COLUMBIA  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2538  
Email: [sherri.morgan@usdoj.gov](mailto:sherri.morgan@usdoj.gov)  
TERMINATED: 11/07/2018

Date Filed	#	Docket Text
10/24/2016	<u>1</u>	COMPLAINT against All Defendants ( Filing fee \$ 400 receipt number 0090-4718497) filed by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons Agency Defendant, # <u>3</u> Summons US Attorney for DC, # <u>4</u> Summons US Attorney General)(Dumais, Laura) (Entered: 10/24/2016)
10/24/2016	<u>2</u>	Corporate Disclosure Statement by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dumais, Laura) (Entered: 10/24/2016)
10/25/2016		Case Assigned to Judge Rudolph Contreras. (sb) (Entered: 10/25/2016)
10/25/2016	<u>3</u>	SUMMONS (3) Issued Electronically as to UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Consent Form)(sb) (Entered: 10/25/2016)
10/31/2016	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 10/31/2016. Answer due for ALL FEDERAL DEFENDANTS by 11/30/2016. (Dumais, Laura) (Entered: 10/31/2016)
10/31/2016	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 10/31/16. (Dumais, Laura) (Entered: 10/31/2016)
10/31/2016	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY served on 10/31/2016 (Dumais, Laura) (Entered: 10/31/2016)
10/31/2016	<u>7</u>	ERRATA <i>Corrected Declaration of Service</i> by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY <u>4</u> Summons Returned Executed in FOIA as to U.S. Attorney. (Dumais, Laura) (Entered: 10/31/2016)
10/31/2016	<u>8</u>	ERRATA <i>Corrected Declaration of Service</i> by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY <u>5</u> Summons Returned Executed as to U.S. Attorney General. (Dumais, Laura) (Entered: 10/31/2016)
11/30/2016	<u>9</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Kelly, Wynne) (Entered: 11/30/2016)
11/30/2016		MINUTE ORDER granting <u>9</u> Consent Motion for Extension of Time: It is hereby ORDERED that Defendant shall file its response to the Complaint on or before December 7, 2016. SO ORDERED. Signed by Judge Rudolph Contreras on 11/30/2016. (lcrc1) (Entered: 11/30/2016)

12/07/2016	<u>10</u>	ANSWER to Complaint by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.(Kelly, Wynne) (Entered: 12/07/2016)
12/07/2016		MINUTE ORDER: It is hereby ORDERED that the parties shall meet, confer, and submit a proposed briefing schedule on or before December 22, 2016. SO ORDERED. Signed by Judge Rudolph Contreras on 12/7/2016. (lcrc1) (Entered: 12/07/2016)
12/22/2016	<u>11</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Kelly, Wynne) (Entered: 12/22/2016)
12/22/2016		MINUTE ORDER: Upon consideration of <u>11</u> the parties' Joint Status Report, it is hereby ORDERED that, on or before February 6, 2017, the parties shall meet, confer, and submit a joint status report, which shall include a briefing schedule if necessary. SO ORDERED. Signed by Judge Rudolph Contreras on 12/22/2016. (lcrc3) (Entered: 12/22/2016)
12/22/2016		Set/Reset Deadlines: Status Report due by 2/6/2017 (tj) (Entered: 12/22/2016)
02/06/2017	<u>12</u>	Joint STATUS REPORT by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dumais, Laura) (Entered: 02/06/2017)
02/06/2017		MINUTE ORDER: It is hereby ORDERED that the parties shall meet, confer, and submit a joint status report on or before March 8, 2017. The joint status report shall either inform the Court of the resolution of all remaining issues or include a proposed briefing schedule. SO ORDERED. Signed by Judge Rudolph Contreras on 2/6/2017. (lcrc1) (Entered: 02/06/2017)
03/07/2017	<u>13</u>	MOTION to Amend/Correct <u>1</u> Complaint, by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY (Attachments: # <u>1</u> Supplement Amended and supplemental complaint proposed for filing)(Dumais, Laura) (Entered: 03/07/2017)
03/08/2017	<u>14</u>	Joint STATUS REPORT by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dumais, Laura) (Entered: 03/08/2017)
03/08/2017		SCHEDULING MINUTE ORDER: Upon consideration of <u>14</u> Joint Status Report, it is hereby ORDERED that Defendant shall oppose <u>13</u> Plaintiff's Motion for Leave to File Amended and Supplemental Complaint on or before March 21, 2017 and Plaintiff shall file its reply on or before March 28, 2017. It is FURTHER ORDERED that the parties shall file a joint status report within ten days of the Court's decision on Plaintiff's motion. SO ORDERED. Signed by Judge Rudolph Contreras on 3/8/2017. (lcrc1) (Entered: 03/08/2017)
03/08/2017		Set/Reset Deadlines: Responses due by 3/21/2017 Replies due by 3/28/2017. (tj) (Entered: 03/08/2017)
03/21/2017	<u>15</u>	Memorandum in opposition to re <u>13</u> MOTION to Amend/Correct <u>1</u> Complaint, filed by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit N, # <u>15</u> Exhibit O, # <u>16</u> Exhibit P, # <u>17</u> Text of Proposed Order)(Kelly, Wynne) (Entered: 03/21/2017)
03/28/2017	<u>16</u>	REPLY to opposition to motion re <u>13</u> MOTION to Amend/Correct <u>1</u> Complaint, filed by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Attachments: # <u>1</u> Exhibit Ex. A – February 1, 2017 EPA email, # <u>2</u> Supplement Revised amended and supplemental complaint)(Dumais, Laura) (Entered: 03/28/2017)
03/28/2017	<u>17</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Damon William Taaffe on behalf of UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Substituting for attorney Wynne Patrick Kelly (Taaffe, Damon) (Entered: 03/28/2017)
04/05/2017	<u>18</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Paula Naomi Dinerstein on behalf of PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY Substituting for attorney Laura Marie Colangelo Dumais (Dinerstein, Paula) (Entered: 04/05/2017)
05/08/2017		MINUTE ORDER granting <u>13</u> Motion for Leave to File Amended and Supplemental Complaint. The Court has considered <u>15</u> Defendant's opposition, including

		Defendant's argument that amendment will delay the instant action. However, because the instant action is relatively new and no briefing or other substantive activity has yet occurred, any delay would be insignificant. Furthermore, the Court notes that leave to amend is to be liberally granted under Federal Rule of Civil Procedure 15. Therefore, it is hereby ORDERED that <u>13</u> Motion for Leave to File is GRANTED. It is FURTHER ORDERED that [16-2] Plaintiff's Amended and Supplemental Complaint, as attached to its reply, is deemed filed. Signed by Judge Rudolph Contreras on 5/8/2017. (lcrc1) (Entered: 05/08/2017)
05/08/2017	<u>19</u>	AMENDED COMPLAINT against UNITED STATES ENVIRONMENTAL PROTECTION AGENCY filed by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY.(znmw) (Main Document 19 replaced on 5/9/2017) (jf). (Entered: 05/09/2017)
05/22/2017	<u>20</u>	ANSWER to <u>19</u> Amended Complaint by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. Related document: <u>19</u> Amended Complaint filed by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY.(Taaffe, Damon) (Entered: 05/22/2017)
05/23/2017		MINUTE ORDER: It is hereby ORDERED that the parties shall meet, confer, and submit a proposed briefing schedule on or before June 6, 2017. SO ORDERED. Signed by Judge Rudolph Contreras on 5/23/2017. (lcrc1) (Entered: 05/23/2017)
05/23/2017		Set/Reset Deadlines: Proposed Briefing Schedule due by 6/6/2017 (hs) (Entered: 05/23/2017)
05/25/2017	<u>21</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Taaffe, Damon) (Entered: 05/25/2017)
05/25/2017		MINUTE ORDER: Upon consideration of <u>21</u> Joint Status Report, it is hereby ORDERED that Defendant shall continue to process at least 1000 potentially responsive documents per month and to release records each month on or before the 10th day of the month. It is FURTHER ORDERED that the parties shall file joint status reports every 60 days, with the first status report filed on or before June 26, 2017. SO ORDERED. Signed by Judge Rudolph Contreras on 5/25/2017. (lcrc1) (Entered: 05/25/2017)
05/26/2017		Set/Reset Deadlines: Joint Status Report due by 6/26/2017 (hs) (Entered: 05/26/2017)
06/26/2017	<u>22</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Taaffe, Damon) (Entered: 06/26/2017)
08/25/2017	<u>23</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Taaffe, Damon) (Entered: 08/25/2017)
10/25/2017	<u>24</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Taaffe, Damon) (Entered: 10/25/2017)
11/02/2017		Case directly reassigned to Judge Trevor N. McFadden. Judge Rudolph Contreras is no longer assigned to the case. (ztnr) (Entered: 11/02/2017)
11/16/2017		MINUTE ORDER: In light of the recent assignment of this case to Judge McFadden, the parties are advised that the pre-existing schedule for this case remains in effect. The parties shall comply with all deadlines as previously ordered. SO ORDERED. Signed by Judge Trevor N. McFadden on 11/16/2017. (lctnm1) (Entered: 11/16/2017)
12/20/2017	<u>25</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Taaffe, Damon) (Entered: 12/20/2017)
02/20/2018	<u>26</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Taaffe, Damon) (Entered: 02/20/2018)
04/03/2018	<u>27</u>	NOTICE of Appearance by Sherri L. Morgan on behalf of UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Morgan, Sherri) (Entered: 04/03/2018)
04/04/2018		NOTICE OF ERROR re <u>27</u> Notice of Appearance; emailed to sherri.morgan@usdoj.gov, cc'd 4 associated attorneys --- The PDF file you docketed contained errors: 1. Incorrect header/caption/case number, 2. Incorrect document/case,

		3. Please refile document, 4. ENTERED IN ERROR; Incorrect document/Incorrect case caption and number. Please refile. (znmw, ) (Entered: 04/04/2018)
04/04/2018	<u>28</u>	NOTICE of Appearance by Sherri L. Morgan on behalf of UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Morgan, Sherri) (Entered: 04/04/2018)
04/20/2018	<u>29</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Morgan, Sherri) (Entered: 04/20/2018)
04/20/2018	<u>30</u>	STANDING ORDER Establishing Procedures for Cases Before Judge Trevor N. McFadden. The parties are hereby ORDERED to read and comply with the directives in the attached standing order. Signed by Judge Trevor N. McFadden on 4/20/18. (lctnm1) (Entered: 04/20/2018)
06/19/2018	<u>31</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Morgan, Sherri) (Entered: 06/19/2018)
08/17/2018	<u>32</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Morgan, Sherri) (Entered: 08/17/2018)
10/25/2018		MINUTE ORDER TO SHOW CAUSE. On May 25, 2017, the Court ordered the parties to file joint status reports every 60 days, beginning on June 26, 2017. A Joint Status Report was due October 16, 2018, yet none was filed. Accordingly, it is hereby ORDERED that Public Employees for Environmental Responsibility shall file a response to this Order to Show Cause on or before November 26, 2018 explaining why its complaint should not be dismissed for a failure to prosecute. SO ORDERED. Signed by Judge Trevor N. McFadden on 10/25/2018. (lctnm1) (Entered: 10/25/2018)
10/25/2018		Set/Reset Deadlines: Plaintiff's response to the Court's Order to Show Cause due by 11/26/2018. (hmc) (Entered: 10/25/2018)
11/06/2018	<u>33</u>	Joint MOTION for Extension of Time to File <i>nunc pro tunc</i> by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY (Attachments: # <u>1</u> Text of Proposed Order proposed order)(Dinerstein, Paula) (Entered: 11/06/2018)
11/06/2018	<u>34</u>	Joint STATUS REPORT by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dinerstein, Paula) (Entered: 11/06/2018)
11/07/2018		MINUTE ORDER granting Plaintiff's <u>33</u> Motion for Extension of Time. The parties are hereby ORDERED to file a further Joint Status Report on or before January 7, 2019, and every 60 days thereafter until directed otherwise by the Court. Signed by Judge Trevor N. McFadden on 11/7/18. (lctnm1) (Entered: 11/07/2018)
11/07/2018	<u>35</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Marina Utgoff Braswell on behalf of UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Substituting for attorney Sherri L. Morgan (Braswell, Marina) (Entered: 11/07/2018)
11/07/2018		Set/Reset Deadlines: Joint Status Report due by 1/7/2019, and every 60 days thereafter. (hmc) (Entered: 11/07/2018)
01/03/2019	<u>36</u>	Consent MOTION to Stay ( <i>Defendant's Consent Motion to Stay Proceedings in Light of Lapse of Appropriations</i> ) by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Braswell, Marina) (Entered: 01/03/2019)
01/03/2019		MINUTE ORDER granting <u>36</u> Motion to Stay. Upon considering the Defendant's <u>36</u> Motion to Stay, it is hereby ordered that this matter shall be stayed until Congress has restored appropriations to the Department of Justice. It is further ordered that the Defendant will notify the Court immediately upon resumption of appropriations. Signed by Judge Trevor N. McFadden on 1/3/2019. (lctnm2) (Entered: 01/03/2019)